

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re
JOHN W. HOPPER,
Debtor.

Case No. 91-54880-MM
Chapter 13

**ORDER DENYING MOTION TO FIX
COMPENSATION AND DENYING
DEBTOR'S MOTION TO AMEND PLAN**

Before the Court for consideration are the Debtor's Motion to Fix Compensation of Trustee and the Debtor's Oral Motion to Modify Plan, which arise in connection with the Debtor's sale of his interest in his residence and the Trustee's disbursement from the proceeds of sale to the IRS on account of the IRS' impaired claim. These motions raise purely legal issues: whether the Court has jurisdiction to review the statutory percentage fee allowable to the standing trustee as compensation and whether the Debtor may make direct payment to creditors on impaired claims without trustee compensation. For the reasons set forth herein, the Court having considered the briefs of the parties and the arguments of counsel, and good cause appearing, it is ORDERED that:

1. The Debtor's Motion to Fix Compensation of Trustee is denied. In re Schollett, 980 F.2d 639, 645 (10th Cir. 1992); In re Savage, 67 B.R. 700, 706 (D.R.I. 1986). Regrettably, both the United States Trustee and the Chapter 13 Trustee have declined in this case to consent to a lowered percentage notwithstanding that the Chapter 13 Trustee would reap a windfall, the debtor would suffer hardship, and the Chapter 13 system as a whole would benefit. See 1 Lundin, Chapter 13 Bankruptcy §§ 3.64-3.68 (Wiley 2d ed. 1994 & Supp. 1996). Absent the consent of the United

1 States Trustee and the Chapter 13 Trustee, the Court is constrained to enforce the applicable
2 provisions of the Bankruptcy Code literally, which compel that the motion be denied. 11 U.S.C. §
3 326(b); 28 U.S.C. § 586(e)(2).

4 2. The Debtor's Oral Motion to Modify Plan to allow the debtor to make a direct
5 disbursement of \$84,853.24 to the IRS retroactively on account of its lien is denied as impermissible.
6 In re Fulkrod, 126 B.R. 584, 588 (Bankr. 9th Cir. 1991), aff'd, 973 F.2d 801 (9th Cir. 1992).